THOSE REDSKINS.

A Conflict Reported-Two Officers and Fifty Men Are Killed.

The War Department Not Advised, But the Report is Generally Credited. Gen. Brooke Reports.

Troops Ordered from Texas Are Placed in Bather a Delicate Position-Indians Preparing for Flight-

THE DAY'S MOVEMENTS. BISMARCK, N. D., Dec. 17 .- But little word is obtainable from Standing Rock, as an iron-clad non-intercourse rule of the military holds a tight reign over the officials of the military telegraph. All newspapers are cut off from any communication by wire with the agency. The mail driver from Winons this afternoon knew nothing more than was published by all morning papers. It is learned that Capt. Fetchet's troops of cavalry did not pursue the retreating ostiles who went up the Grand river. Two troops of cavalry from Fort Lincoln, with three days' rations, start for the crossing of the government trail over the Cannon Ball river about fifty-five miles southwest of here, and will probably establish a camp there. A number of tenmsiers and wagons were sent from here this afternoon to follow the troops with supplies from the quartermaster's department. FURTHER PARTICULARS OF SITTING BULL'S

DEATH. St. PAUL, MINN., Dec. 17 .- The Pioneer Press has received from Fort Yates, via courier to Bismarck, full details of the killing of Sitting Bull. The pollice were in camp over night near Sitting Bull's camp and in the morning, under command of Bull Head, lieutenant, and Shave Head, first sergeant, went in and made the arrest. Sitting Bull expressed a willingness to go with them, but said he wanted to get ready The two leaders went with him into his tent, after he had ordered that his horse be got ready. While the old chief was getting ready two bucks wrapped in blankets entered the tence and, throwing off their blankets, opened fire on the police. Sitting Bull's wife set up a howl outside, which seems to nave been a signal for the assault. In the fight which followed Red Tomahawk killed Sitting Bull, several of Sitting Bull's followers were killed and Bull Head and Shave Head desperately wounded, and will undoubtedly die. The police were now surrounded, but the military arrived and, after an hour of hot skirmish, the Indians took to flight disappeared in the timber. They will undoubtedly go to Pine Ridge camp. Trouble at Standing Rock agency is now believed to be over. Four police were

hostiles were killed. DESPERATE FIGHT WITH BEAVY LOSS. St. Louis, Mo., Dec. 17 .- A dispatch from Denver says the News has information from one of its couriers that a rancher had arrived post haste at the camp near Rapid City, bringing information that a command of cavalry had been attacked by Indians and two officers and fifty men killed, but the Indians were repulsed with heavy losses. The number of indians killed is not known. The Indians were put to rout. This report is probably correct, but it is not known whose command it was. It is probably that of Maj. Tupper of the Sixth cav-Our command will march to their assistance to-morrow.

killed and two mortally wounded. Seven

ARMY HEADQUARTERS NOT ON TO IT. CHICAGO, ILL., Dec. 17. -No news retween United States soldiers and Indians near Rapid City yesterday. Adjut .- Gen. Corbin is inclined to discredit the news. He says a conflict under the condition mentioned at the time was not on the programme. He, feels assured that neither Gen. Miles nor Brooke have any knowledge of such a conflict, else he would have received intelligence of it. If it turns out there was a fight, he says, it will probably prove to have been with a detachment of the Sixth cavalry, under Col. Carr.

WASHINGTON, Dec. 17 .- Gen. Schofield this morning received a telegram from Gen. Miles, dated Long Pine, Neb., December 16, as follows: Gen. Brooke reports Two Strikes and 184 lodges of about 800 Indians are now camped at Pine Ridge agency. These, with other Indians at Pine Ridge and Rosebud are all that can be drawn out of the disaffected camp. The others are defiant and hostile and all are determined to go to war. He has no hope that any other effort at pacification would be successful. He estimates the number of men in the hostile camp in the Bad Lands at 250. Gen. Ruger's estimate represents 200 on Cheyenne river and 300 on Standing Rock reservation who could have been liable to call before the death of Sitting Bull, making in all 750 men. All possible means have been exhausted to retain and restrain the friendly Indiaus now on the reservations. The 16,000 Sloux who have been restrained and profess loyalty should have positive assurance with the least possible delay that the government will perform and fullfil its treaty obligations. No information has been received at the war department in regard to the reported fight in which two officers and fifty men are said to have been killed. The report is discredited at the depart-

IN A DELICATE POSITION. Special to the Gazette.

SAN ANTONIO, TEX., Dec. 17 .- A peculiar state of affairs exists in the department of Texas which will make things awkward for a number of officers. Ten days ago the Fifth infantry, scattered all over the state, was, at the request of Gen. Miles, ordered to prepare to take the field. Two days later they were ordered by Gen. Schofield to go to department of the Platte. Any regiment in the army would have been easier to gather together than the Fifth, and hence it has required over a week to get the companies at Fort Brown to the Now that the regiment is ready to move the order has come to hold them in readiness for further orders, and it is believed it will not leave Texas at all. In the mean ime Gen. Stauley has relieved the officers of the Fifth of the positions they held at their posts, as they were about to depart, and appointed others from the Eighteenth and Twenty-third regiments. New commanders of Forts Bliss and Ringgold and recruiting officers at the posts where the Fifth was stahave been named. As the Fifth will probably not go away those appointed will be placed in a delicate position, and all the expense of equiping the

regiment for the field will have been

PREPARING FOR FLIGHT. DICKINSON, N. D., Dec. 17 .- A courier arrived here last evening with news from Capt. Fountain, in command of the Eighth cavalry. The regulators left this point shortly after sunrise yesterday morning with rations sufficient to last uutii Saturday. The troops met no red men yesterday, and camped last night on the banks of the Cannonball

river near New England City. Teamsters from the south report that Indians are encamped at White Butte. It is evident they are preparing for flight to the British possessions, in the hope that they will not be molested there. The cavalry moved southward at daybreak to-day, and hope to intercept the savages before nightfall. They are about fifty miles away.

A detachment of infantry was ordered to march this morning. It will take a train westward and guard all passes along the Little Missouri through which the reds would be likely to make an attempt to escape.

The fugitive Indians from Grand river camp are being pursued by Lieut. Casey's Cheyenne scouts.

BURIED ALIVE.

The Sickening Story of a Human Being Buried Before Life Was Extinct.

An Awful Scene Disclosed on the Opening o the Grave-The Coffin Split in the Death Struggle-

Special to the Gazette

DENVER, Col., Dec. 17 .- A horrible story of a man being buried alive, while supposed to be dead, is published here. On Sunday, November 30, Louis Brenplove of the South Park railway shops, was supposed to have died from over indulgence in malt stimulants His funeral was set for December 2, under the auspices of one of the local tribes of red men. There was nothing unusual about the services until the coffined body was placed in the hearse. Then for some reason the horses which had been used for this purpose for years refused to go and became so unruly that they

HAD TO BE CHANGED for another team. When the cortege was ready to move the horses of Henry Speck, one of the mourners, positively refused to move and he was obliged to procure another animal. To add to the list uncommon and uncanny events a runaway team crossed the funeral procession on the way to the Riverside cemetery and collided with a buggy containing two of the of the deceased. The men escaped injury, but the buggy was badly damaged. Arriving at the cemetery the coffin was dropped from the hearse by blundering attendants, to the disgust of the mourners. Another and more sickening accident awaited. As the coffin was being lowered into the grave one of the ropes broke, and for a moment the people were horrified by seeing the coffin standing on end in the grave. According to the burial services of the red men it is provided for the liberation of a dove from a small box

PLACED ON THE COFFIN just as the first handful of dirt is thrown into the grave. This was finally done. After the coffin had been properly placed in the grave, with a feeling akin to superstitious terror some of the mourners saw the dove flutter from its cage and alight at the very edge of the grave. It would not take wings frightened away by the who piled the dirt over men who piled the narrow home of the deceased. There ceived this morning at army headquar-ters in regard to the reported fight be-procession that wended its way slowly from the city of the dead. The more superstitious began to ponder over the matter, and finally decided to disinter the remains. This work was done one week ago last Sunday, and to their unspeakable horror they discovered as soon as the lid of the coffin box was raised that the coffin itself was split and the THE COVER WAS BROKEN

as if the dead had come to life and in the unutterable agony of a realization of his position had struggled with the mad desperation of hopelessness and help essness to free himself from the very grasp of a death whose horrors can be but feebly imagined by the living. The coffin lid was raised and the full horror burst upon them. The body was lying on its face. The linings of the coffin had been tort to shreds. The bair was pulled out of the head. The arms were bent and the hands so tightly elenched that the finger nails had been sunk into the torted from the awful struggle through which the man had passed, and the cheeks showed that in his frenzy the man entombed alive had dug his nails deep into his flesh. stricken at the discovery they had made, the friends first made sure that life was indeed extinct and then replaced the id of the co fin, refilled the grave and left the place.

RAISED THE FRACTION.

The Figures on Cotton Tickets Raised from S 1-4 to S 3-4- Boy and Horse Arrested.

Special to the Gazette. BONHAM, TEX., Dec. 18 .- W. M. Belcher, a farmer living fifteen miles south of this city, sold cotton to Joe Moss, one of our cotton buyers. The tickets were made out for 8140 and Beicher changed them to 834 c. He cashed them at the cashier's office and left the city. As soon as discovered, a complaint was tiled charging him with forgery. Deputy Sheriff Holland went after him and caught his man and placed

To-day Sheriff Chaney received a letter from the sheriff of Raines county telling him to look out for a boy fifteen years old riding a black pony mare, and to arrest him, but not put him in iail until his father arrived. Sheriff Chaney caught his boy this morning, and has him now in charge of a special deputy. swaiting the arrival of his father.

Struck by a Cannon Ball.

him in the care of Sheriff Chaney.

Special to the Gazette. BIVENS, TEX., Dec. 18 .- Lee McAdams, a young man working at Bivens. Venable & Co.'s planing mill, was struck and fatally injured by the Texas and Pacific fast cannon-ball train No. 5 at this place to-day. He is supposed to have been drinking and went to sleep sitting on the ties.

The original Webster Unabrideed Diction ary and the We ictionary shipped, prepaid express office nearest the subscriber.

CAUSE CELEBRE.

Attorney-General Hogg's Argument on the International Bond Case.

Clear Presentation of the Case on Behalf the State-Reasons Why the State Should Intervene

Special to the Gazette. TYLER, TEX., Dec. 17 .- Following is a ve batim report of Attorney-General Hogg's argument on the International bond case, delivered before the supreme court at Tyler yesterday. It is a clear presentation of the case on behalf of the state, and sets forth in formidable array the reasons why the state should interfere as an intervenor, and why the bonds should be declared invalid. It is as follows:

Argument of Attorney-General J. S. Hogg in the supreme court at Tyler, in the case of the State of Texas, appeliant, vs. the Farmers' Loan and Trust Company and the International and Great Northern Railroad Company, appel-

lees.

ACTION.

This was a suit instituted in the district court of Smith county, Tex., March 30, 1859, by the Farmers' loan and trust company as plaintiff against the International and Great Northern railroad company as defendant, to recover the sum of \$10,348,000 due upon certain second mortgage bonds alleged to have been issued and sold by said railroad company and applied to the construction and operation of its road, and to foreclose the mortgage upon all the property and franchises of said company, alleged to have been executed by said company to plaintiff as trustee to secure the payment of said bonds.

There was a prayer for the appointment of a receiver, and receivers were appointed to take charge of and operate the mortgaged property under the direction of the court during the tendency of the case; prayer for judgment for amount sued for and for forclosure of mortgage and sale of the property to satisfy such judgment, and for costs of suit and general and special relief.

The defendant company on September 20, 1889, answered by general demurrer and general denial.

On September 6, 1889, the state of Texas was STATEMENT OF THE NATURE AND RESULT OF THE

by order of the court permitted to intervene in said suit.

Admitted as a party to the action, the state by its plea of intervention challenged the validity of the mortgage and bonds sued on, for various reasons; prayed that they each be canceled; that the owners and holders be prohibited from negotiating them; that the corporation and its receivers be restrained from paying them; and for general and special relief.

On September the 18th, 1889, plaintiff filed exceptions to the state's plea of intervention and moved to strike it out.

On February 28, 1890, the court, upon a hearing of plaintiff's exceptions and motion to strike out the state's plea of intervention, overruled the same and permitted the state to remain a party to the action.

The case was thereupon continued to the fall

The case was thereupon continued to the fall The case was thereupon continued to the fall term. 1829.
On October 6, 1839, the case being called for trial, plaintiff moved the court to take a nonsuit, which was by the court permitted, adjudging the plaintiff to pay all costs of the proceeding and all the other parties to go hence without date, to all of which the state in open court then and there objected and protested, and asked to be heard on its plea of intervention, which being refused the state excepted and in open court gave notice of appeal to the supreme court of Texas, filed its bill of exceptions and assignment of errors, and now brings the case to this court for revision.

The first question to be considered here is, did the court below commit an error in permitting plaintiff to take a nonsuit over the protests and objections of the intervenor? Adhering to the strict language of the statute, which, when so plainly written every litigant should have the right to rely on with implicit confidence for his protection, there can be no doubt but that the court violated the law in dismissing the case. It expressly says that at any time before the jury have retired a plaintiff may take a nonsuit, but shall not thereby prejudice the right of an adverse party to be heard on his claim for affirmative relief. The "claim for affirmative relief indicated to any particular conditions. A plaintiff can take his nonsuit, but if there is a claim for affirmative relief by an adverse party, his right to have that claim heard and determined by the court in that case ought not to be denied in the face of express statute. The facts, when developed before the jury or the court, would settle the question as to the merit of such claim. Then, it seems, this court in passing on the question raised would have to consider two things: First, was there an adverse party in the case asking to be heard on a claim for affirmative relief? Second, was that claim prejudiced by the nonsuit?

The pleadings clearly show that the state was seeking affirmative relief in the case by cross-demand on the plaintiff; and the action of the court in permitting the nonsuit?

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The pleadings clearly show that the state was seeking affirmative relief in the case by cross-demand on the plaintiff; and the action of the court in permitting the nonsuit?

for the relief it sought by its piea therein. The purpose and efficacy of such a statute has never been more strongly demonstrated perhaps than in this case. For the one time in the history of the country foreign bondhoiders have sought to recover judgment in a state court upon a public highway for an enormous amount of money. The demand thus set up by them was met by the state upon the charge that it was in express violation of her constitution and laws, and created without benefit or consideration to the corporate property or to the public, but for a speculative purpose, which, if established, would impose unjust burdens through corporate

franchises upon the public.

If the claim were a just and honest and not a factitions one, then the law afforded ample protection to the plaintiff, which Texas courts will tection to the plaintiff, which Texas courts will always see given. At the time when that issue could be settled without further delay a nonsuit was taken. If that is permitted to stand a prejudice to the state's right to have its adverse claim settled is apparent, for it is reasonable to suppose that the plaintiff would seek to recover a judgment in some other court. By this the state might be denied its right to defend an action, or perhaps be put to the inconvenience of defending in a multiplicity of suits brought by the various bondholders in their own individual separate right.

defending in a multiplicity of suits brought by
the various bondholders in their own individual
separate right.

It may be contended with much force and on
good authority that the withdrawal of the
pleadings filed by plaintiff was a waiver of all
objections to the pleadings of the state in the
case, and an admission that it had pleaded a
good cause of action. The issue was sharply
drawn, and it is but natural that plaintiff
would have taken a judgment by default had it
not been for the state's defense. The mere
fact of a nonsuit at that juncture, in the face
of the allegations made by the state, is tantamount to the confession that there was danger
in meeting it. If the defense was well founded,
was it such a right lodged in the state as could
be prejudiced by any action of the court? If it
was, then the nonsuit was error. Logically,
this leads to a discussion of the underlying
question in the case, to-wit:

Has the state the right to enter her courts for
the purpose of having bonds that have been illegally issued by a railway company canceled,
or the right to prevent the comp my from erercising its corporate powers in the sayment of
fictitious debts at the expense of the public?

It seems to be a well settled doctrine that the
rules of construction as to the powers of municipal and railway corporations are the same

of construction as to the powers of muni cipal and railway corporations are the same, and that "the rule that a corporation has only power to do such acts as its charter, considered

cipal and railway corporations are the same, and that "the rule that a corporation has only power to do such acts as its charter, considered in relation to the general law, authorizes it to do applies to every class of corporations." [R. Co. vs. Morris et al., 67 Texas, 692.]

In the case of May vs. the City of Detroit, 12 Am. Law Reg., 149, Justice Cooley, rendering the opinion, held "That the attorney-general has the right to enjoin in equity the abuse of a corporate franchise, as, for instance, the payment of money by a municipal corporation on a contract made in disregard of its charter." And in further discussing the question he said: "It is the right of the state at all times to keep the grantees of its franchises within the limits prescribed in the grant, and public policy in general requires that serious departures should not be overlooked, even though the parties injured having an opportunity to act do not complain; for one abuse becomes a precedent for another, and the attorney-general does well to interfere when a municipality assumes to do injurious acts which the state in conferring the power to act at all has expressly prohibited."

In the case of the Attorney-General vs. the Great Northern Railroad company, cited in this brief, it was alleged by that officer, among other things, that the company was chartered for the carrying of passengers, and also coals for coal merchants and others; and then it alleged, which was the ground of dispute, that the company also dealt largely in coals, buying and selling in competition with other coal merchants to an enormous extent, and he. in behalf of the public, prayed that the company might be restrained from employing its funds for such business. The fact of the trading was clearly proven. The issue was sharply drawn before the court as to the right of the attorney-general to interfere to keep companies of that kind in order, or to bring such an action at all. In passing on the question the learned judge in the case says: "On this point I entertain no doubt w

interests of the public by information; and that where in the case of injury to private interests it was competent for an individual to apply for an injunction to restrain the company from using those powers for purposes not warranted by the act creating it, it is competent for the attorney-general, in case of injury to the public interest from such cause, to file an information for injunction. Where it is to the interest of the public to prevent an illegal act such as this being committed it is competent for the attorney-general to file an information to restrain it." [See Drewry & Smales (Eng.) Rep., vol. 1, p. 154.]

This principle has never been changed and

p. 1st.]

This principle has never been changed, and should never be. In that case the corporation performed its functions to the public by carrying passengers and coal, but it exceeded its corporate powers by the use of its funds for buying and selling that article. It indeed was acompetitor with coal merchants. The attorney-general's action was to restrain it from the abuse of its corporate franchises in using its funds for other than corporate purposes as a competitor in trade with business men.

In the case at bar the railway company, without debt or corporate demands, executes bonds in violation of the constitution and laws of the state. They are therefore void in the hands of anybody. By collusion with the stockholders and others it seeks to have these bonds estaband others it seeks to have these bonds estab-lished as a fixed charge upon its property by decree of the court. The attorney-general en-ters the state as a party, claiming the right to prevent the abuse of the corporate franchises in that way, contending that to pay the enor mous judgment sought to be recovered by reason of these bonds would involve the exercise of the corporate functions to the damage of the public.

corporate functions to the damage of the public.

If therefore, the attorney-general in England could restrain a corporation from the use of its funds in the coal trade, why cannot the attorney-general in Texas restrain a corporation from using its corporate powers to raise funds to pay a debt it never owed? The one was prevented from engaging in a business that might have been beneficial to the public to the injury of the company's competitors in the coal trade. The other was to benefit no one except private parties who hold claims in express violation of the constitution and to the injury of the public. the public.

This English case is a sound precedent, offere This English case is a sound precedent, offered for the one at bar. And it, in connection with the Attorney-General vs. Railroad Company [35] Wis., [412], which sustains that officer in his action to restrain railway companies of that state from excesses or abuses of their franchises in violation of public laws, is cited with much confidence in support of the state's right of action herein. By analogy also the case of the State of Texas vs. the Gulf. Colorado and Santa Fe Railroad Company [72 Texas, p. 404], decided by this court, is a good precedent for this one. In that action the state by injunction restrained several railway companies from violating her constitution and laws—mainly what is attempted here to do.

In the famous Dartmouth college case the

In the famous Dartmouth college case the principle was established which is now yielded to by all the courts that a charter is a contract between the government and the incorporators who accept it. No doctrine has ever been received with more favor by the corporations than that one. Now then the state alleges that it entered into a contract with the International and Great Norther realizate company to the acceptance of the state o that one. Now then the state alleges that it entered into a contract with the International and Great Northern railway company to the effect, among other things, that the company would not execute any mortgage, issue any bonds or incur any indebtedness except for money paid or property or labor received and applied to the construction, completion, equipment, working or operation of the lines of railway named in its charter, and that it would carry the traffic of the country at a low rate. It alleges many obligations of the company on the performance of which its part of the contract rested. The allegations were full of the particulars in which the conditions of the contract would be impossible of performance if the judgment of the court should be rendered establishing those bonds as fixed charges upon the road. If, therefore, the charter is a contract entered into by the state as a party to it with the International and Great Northern railroad company, the obligations whereof were about to be violated by the company, had not the state the right to enter its own courts to prevent it? If it could move to do so by an independent action for that purpose, then what is in its way to the accomplishment of that end as an intervenor in a suit already pending! If the contract gave her rights that could be asserted in court, there is no reason nor law why she should not enter any pending case as a party to protect them.

Aside from her rights arising under a contract the state ucosesses higher privileges as a sov-

case as a party to protect them.

Aside from her rights arising under a contract the state possesses higher privileges as a sovereign who alone can protect the public against the abuses that flow from corporate mismanagement. She created that railway company as a public highway. It was made so by the constitution. Its purpose was intended for the public good as well as for private rain within the limitations which necessarily surround all corporate enterprises of a public nature. Under the constitution and the laws and by the charter the state granted that railway company powers and state granted that railway company powers and privileges beyond which it could not go. It is an elementary principle that the powers of a corporation organized under legislative

of a corporation organized under legislative statutes are such and such only as those statutes confer.

It therefore remains that the charter of a corporation is the measure of its powers, and that the enumeration of these powers implies the exclusion of all others.

Now then expressly set forth and alleged in the pleadings, minutely and in detail, in reference to the bonds in question are the powers conferred upon the International and Great Northern railroad company by the state, within none of which did the right to execute such bonds ever exist. The plaintiff failed to meet the issue but took a nonsuit, virtually confessing thereby the correctness of the state's allegations.

There are but few cowers that can be ex-There are but few powers that can be exercised with more damaging effect upon corporate property or the public than the one by which debts are created. To pay debts the corporation must have funds. To procure funds it must levy a tax or rate upon the traffic which it carries. As a sequence, therefore, its traffic rates must grow in proportion to its indebteduess so as to raise funds necessary with which to pay it. If the indebteduess is light a low rate on the traffic only may be demanded. If it is heavy it. If the indebtedness is light a low rate on the traffic only may be demanded. If it is heavy, necessarily the tax rate must be increased to pay it. The levy of a traffic rate is a sovereign power delegated by the state to the corporation upon express or implied conditions. The issuance of debt obligations involves the exercise of that power so vested, and if that power is abused the correction when the correction were readers and the correction when the correction when the correction were readers and the correction when the correction when the correction were readers and the correction when the correction when the correction were readers and the correction when the correction when the correction were readers and the correction when the correction when the correction were readers and the correction when the correction were readers and the correction when the correction were readers and t

upon express or implied conditions. The issuance of debt obligations involves the exercise of that power so veated, and if that power is abused the corporate property suffers and the charter contract is violated. If the corporate property suffers the public is to that extent injured, and should have its remedy.

The constitution expressly requires the attorney-general to take such action in the name of the state as may be proper and necessary to prevent any private corporation from exercising any power not authorized by law. The contention of appellant is that the appellees' claim is an illegal and unauthorized one; that it requires the exercise of corporate powers and action to pay it; that an increase of the traffic rates on the railroad would become necessary to do so, and in that particular the public would be affected and injured by acts in violation of the letter and spirit of the law.

The court will observe that as to said bonds the state contends, first, that they were prohibited by the express provisions of the law, and second, that they were not authorized by any law. If there had been no express provision against the issuance of such securities, they would have been void if they involved the exercise of corporate power unless they were authorized law. If that can be established why should not the corporation be restrained from paying them!

Again, the purpose for which indebtedness can be incurred by a railway company is limited to such sums of money as may be necessary for constructing, completing, improving, or operating the railway; and the power to incur it must be exercised by a corporate board of directors authorized to act, nor for any of the purposes expressly pointed out in the statute, but that they were creatures of a specularive scheme to fix burdens upon the public exclusively for private gain. With notice of these facts to the owners before buying the bonds, why should they not be canceled?

If the state is not interested as a party to the charter contract, or as a defender of the publ they were colleging for the purpose of fixing the bonds as a debt upon the road by decree of the

they were collising for the purpose of fixing the bonds as a debt upon the road by decree of the court.

No same man can doubt that a railway debt is a public burden, and that all public burdens must be discharged by taxation in some form. The state, the county, the city issue their bonds and levy a tax to pay them. A railway company issues bonds to pay which it collects a toll from the traffic of the country which it carries. So it goes; if a county or a city issues bonds without express suthority, they are void. If they issue them beyond an amount authorized by law, the whole or the excess thereof is invalid according to the conditions affecting them. If suit is brought upon void bonds against a county or city, and a final indgment is rendered thereon, who then could refuse to pay the tax to meet this established debt? Who could inquire into the facts on which that indgement was rendered? Usually no one. By what authority, therefore, can a corporation in charge of a public highway, endowed with the power freely to collect a toll from the traffic it carries to meet its just demands, issue a fictitious debt, binding upon the public if established by a judgment, that could stand in more favor with the law or courts than one of like kind executed by a nunicipal corporation? They derive their powers from the same source and must exercise them within prescribed limits or their acts are equally nitra vires.

It is trusted that this court in considering the questions herein raised will not follow too far the illusory phantom commonly called "innocent purchaser," for the trial court should not be desired a view of a characser whose presence is always so inseparably connected with such transactions as are here in issue.

Another reason that may lead more forcibly to the conclusion that the state is the proper party, and has the right to the relief sought in this case, is this: The constitution declares

d in cloth.

that railways are public highways, and requires the legislature to pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight carried by them. It is a well known fact to this court that railway corporations have seriously contended, and that some courta have held, that when the legislature performs its duty in fixing a maximum rate it must be high enough to afford a return sufficient to pay for the maintenance of way, for the operation of the road, the expenses of management, interest on debt, and leave something as compensation to the stockholders. If this doctrine should ever be established as correct (which seems now to be the determination of some writers in high authority on the subject), then anyone can see the absolute necessity of some power being vested with the right to inquire into the justness and validity of the debts on the public highways. If the state is denied that right, then who could exercise it? Not the corporation, because it could not tase advantage of its own wrongs. Not the stockholders, because they have received the fruits of the illegal acts, and in a short while are estopped by their lacbes. Not the directors, for they are bound by the will and acts of the stockholders. Not the citizen, because he is not a privy to the contract. Then who sould do it? No one.

Hence to avoid the effect of the just and reasonable rate prescribed by the legislature and to maintain a high one for the transportation of the traffic by the common carriers, they would simply have to increase their indebtedness by a fictitions issue of interest-bearing bonds. If the state could not have them canceled of prevent their payment, the public would surely be at the mercy of rapacious private individuals endowed with the taxing privilege as a corporation beyond the power of the government itself.

BEAUTIFUL SNOW.

East Tennessee, Virginia and Pennsylvania Covered.

The Depth Ranges From Six Inches to Three Feet and Still Snowing. Business Deadlocked.

The Greatest Calamity Threatened Should the Thaw Be a Sudden One in the Mountainous Regions.

THE STORM OVER AT PITTSBURG. PITTSBURG, PA., Dec. 18 .- A great snow storm is over, business has again resumed, and no more trouble is apprehended as long as the snow lies on the ground. A sudden thaw or heavy shower would cause a disastrous flood, as there are from eighteen mehes to three feet of snow on the mountains and throughout Western Pennsylvania. The railroad blockade has been raised and all trains east and west were nearly on time this morning. Telegraph wires are somewhat crippled, but the companies are getting them in shape very rapidly, and before night will be able to handle ness without delay. Street cars are again running and electric light, telephone, fire alarm and police telegraph is in operation as usual.

IN EAST TENNESSEE AND VIRGINIA. KNOXVILLE, TENN., Dec. 18.—Reports received here show a very heavy snowfall over the mountain countries lying south along the North Carolina border. The snow ranges from six inches to three feet deep, and has been falling since Tuesday noon or even longer.

In Southwest Virginia the snow is very heavy at Brystol. Yesterday no trains on the Norfolk and Western railroad were able to get through and the schedule has been abandoned as the road is buried in snow. In East Tennessee the snow, was from

six to twelve inches deep. At 9 o'clock this morning it was eight inches on level at Jackson City and twelve inches at Brystol and still falling at both places.

WANTS IT CORRECTED.

Hon- E- Wade Corrects Certain Reports Con cerning His Action at the Ocala

NASHVILLE, TENN., Dec. 18 .- Hon. cratic executive committee, and holding a similar position in the State Farmers Alliance, who was delegate to the Ocala (Fla.) convention, said here to-day in an interview with an American reporter that he had been grossly and unjustly misrepresented in the dispatches from Ocals in regard to the alleged resolution binding every member of the Alliance to subscribe to the platform of the order and support no man for office who does not subscribe to these principles. He says no such resolution was offered by himself or any other delegate to that convention. This report has created a great interchange between Democrats and Alliance men of this and adjoining states. Mr. Wade says: So far as my individualities are concerned, they amount to but little, but as I have been placed before the country in a false attitude and the press generally have seself to say that my views have under-gone no change relative to the demands to the Alliance. I am not in favor of the sub-treasury bill of the government, lines, nor any other demand that places the organization in the attitude of subscribing to a policy of centralization and government paternalism. The Tennessee delegation at the Ocala meeting. Buchanan, J. H. McDowell, W. Lightfoot and myself, endeavored by all bonorable means to have the national organization adopt a broad, liberal and conservative policy so that we could go before the country with the motto inseribed on our banner: "Equal rights to all and special favors to none. were also unalterably opposed to any third-party movement, and agreed among ourselves that if this issue was forced we would retire from the body. However, no attempt was made looking to this, and whatever action was taken by the so-called reform press after the adjourning of the National Alliance cuts no figure so far as the greatness of the order is concerned, and I apprehend that

STEELE'S VETO.

no member will consider for a moment

the action of the members for the pres

as binding in the remotest degree on

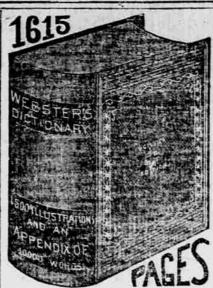
other individual action on a public ques-

tion.

He Sits On the Kingfisher Capital Bill, and Fave Fraud Existed.

Special to the Gazette. GUTHRIE. O. T., Dec. 17 .- Governor Steele vetoed the Kingfisher capital bill to-day and rebuked the legislature, saying evidence of fraud exists and proper attention to same will be had

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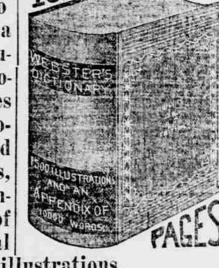
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Chas. H. Lovell. NASVIHLLE, TENN., Aug. 20, 1990.

WELL WORTH THE MONEY. SAN ANTONIO, TEX., Aug. 18, 180). The Democrat Publishing Company:
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